

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TYLER ANTHONY VALDEZ,

Plaintiff,

-v-

8:21-CV-1243

RUTH WILLIAMSON and
CITIZENS ADVOCATE,

Defendants.

APPEARANCES:

OF COUNSEL:

TYLER ANTHONY VALDEZ
Plaintiff, Pro Se
2019 Plumbrook Road
Norfolk, NY 13667

BARCLAY DAMON LLP
Attorneys for Defendants
80 State Street
Albany, NY 12207

BENJAMIN WILKINSON, ESQ.

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On November 18, 2021, *pro se* plaintiff Tyler Valdez (“plaintiff”) filed this action alleging that defendants violated his rights under the Americans with Disabilities Act (“ADA”). Dkt. No. 1. Plaintiff also sought leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 2.

On December 17, 2021, U.S. Magistrate Judge Daniel J. Stewart granted plaintiff's IFP Application and advised by Report & Recommendation ("R&R") that the complaint be dismissed with leave to replead. Dkt. Nos. 6, 7.

On January 6, 2022, this Court overruled plaintiff's objections and adopted Judge Stewart's R&R. Dkt. No. 12. Thereafter, plaintiff enjoyed a thirty-day period in which to amend his pleading in accordance with the instructions set forth in the R&R. *Id.*

Plaintiff did not do so. Instead, plaintiff filed a letter entitled "Summary Judgment," Dkt. No. 14, and has repeatedly telephoned the Clerk's Office to ask questions about the status of his case. *See* Dkt. Entries dated Jan. 12, Jan. 27, Jan. 31, & Feb. 3, 2022. Staff have repeatedly advised him that they cannot give legal advice; they have directed him to consult the R&R for instructions and have given him the phone number for the Pro Se Assistance Program. *Id.* As relevant here, plaintiff advised staff that his "Summary Judgment" letter should be construed as his amended complaint. *Id.*

Plaintiff has filed no further submission. On February 15, 2022, Judge Stewart conducted an initial review of plaintiff's "Summary Judgment" letter in conjunction with his previous filings and advised by R&R that this so-called "amended complaint" be dismissed with prejudice. Dkt. No. 16.

Plaintiff has not filed objections, and the time period in which to do so has expired. *See* Dkt. No. 16. Upon review for clear error, the R&R will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

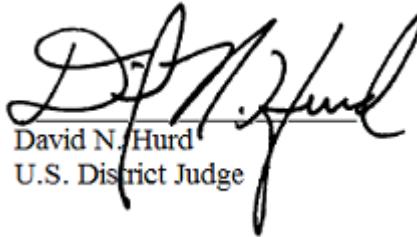
ORDERED that

1. The Report & Recommendation is ACCEPTED; and
2. Plaintiff's amended complaint is DISMISSED WITH PREJUDICE.

The Clerk of the Court is directed to enter a judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: March 7, 2022
Utica, New York.



David N. Hurd
U.S. District Judge